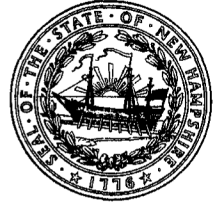




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

Steven D. Sawyer
11 Lyford Drive
Fremont, NH 03044

Re: Failed Septic System, 1 Washington
Drive, Raymond, NH

**NOTICE OF PROPOSED
LICENSE ACTION
No. 05-001**

June 10, 2005

I. INTRODUCTION

This Notice of Proposed License Action is issued by the Department of Environmental Services, Water Division ("the Division") to Steven D. Sawyer, pursuant to RSA 541-A:30 and RSA 485-A:36, I. The Division is proposing to revoke the septic installer's permit #3417 held by Steven D. Sawyer, based on the violations alleged below. **This notice contains important procedural information. Please read the entire notice carefully.**

II. PARTIES

1. The Department of Environmental Services, Water Division is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, New Hampshire.
2. Steven D. Sawyer is an individual holding septic installer's license #3417 issued by the New Hampshire Department of Environmental Services ("DES"), having a mailing address of 11 Lyford Drive, Fremont, NH 03044.

III. SUMMARY OF FACTS AND LAW SUPPORTING PROPOSED ACTION

1. RSA 485-A:29-44 authorizes DES to regulate the subdivision of land and the construction, maintenance, and repair/replacement of individual sewage disposal systems ("septic systems"). Pursuant to rulemaking authority conferred therein, the Commissioner of DES has adopted Env-Ws 1000 to implement this program.
2. DES issued septic system installer permit #3417 dated October 5, 2000 ("the Permit") to Steven D. Sawyer, to allow Mr. Sawyer to engage in the business of installing individual septic systems according to approved plans, and to repair or replace individual septic systems in appropriate circumstances pursuant to RSA 485-A:36, I.
3. Env-Ws 1003.10 requires that licensed installers who intend to replace a failed septic system in the same location file a questionnaire with DES. The questionnaire must include information on the reason for system failure, system location, type of water supply, number of bedrooms served by the

system, the types of appliances adding wastewater to the system, the system's approximate size, age and kind, and copies of previous construction approvals if available.

4. RSA 485-A:36, I authorizes DES to suspend or revoke a septic installer's license for violations of the subdivision governing design and installation of septic systems, or for failure to correct defective work.

5. On or about November 1, 2002, Steven Sawyer began replacement of a failed septic system owned by David and Lisa Lowell, located at 1 Washington Drive, Raymond, NH. The system was reportedly finished on or about May 10, 2003.

6. The Division has no record of submission of the questionnaire as required by Env-1003.10 by the system installer, relating to the replacement of the Lowell's septic system.

7. Shortly after the system was installed, it began to fail. The Lowells contacted the licensed septic designer, Hugo Findeisen. Mr. Findeisen visited the property and, along with another licensed septic designer, did additional test pits near the septic system. These test pits showed the seasonal high water table approximately 6 inches higher than previously thought. However, the system is still located 18 inches above the seasonal high water table and that should be sufficient elevation to allow proper operation of the septic system.

8. Lisa Lowell asserts that Mr. Findeisen opined that his design was correct and that the failure of the system is due to defective installation.

9. Despite repeated contacts from the Lowells; from Mr. Richard Mailhot, Health Officer from the Town of Raymond and DES; Mr. Sawyer has refused to return to the Lowell property to inspect and repair the failed septic system.

IV. VIOLATIONS ALLEGED

1. Steven D. Sawyer has violated Env-Ws 1003.10(j) by failing to submit a repair/replacement questionnaire concerning the septic system he replaced at 1 Washington Drive, Raymond, NH.

2. Steven D. Sawyer has violated RSA 485-A:36, I by failing to correct, or attempt to correct, defective work done in replacing a failed septic system at 1 Washington Drive, Raymond, NH.

V. PROPOSED ACTION

1. Based on the violations identified in IV, above, the Division proposes to revoke the Permit.

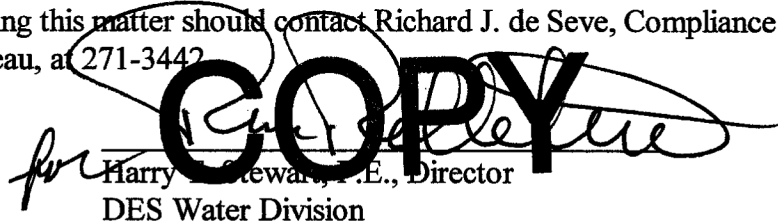
VI. HEARING, RESPONSE, PROPOSED SETTLEMENT

Steven D. Sawyer has the right to a hearing to contest these allegations before the proposed license action is taken. The hearing would be a formal adjudicative proceeding pursuant to RSA 541-A:31, at which Mr. Sawyer and any witnesses Mr. Sawyer may call would have the opportunity to present testimony and evidence as to why the proposed action should not be taken. All testimony at the hearing would be under oath and would be subject to cross examination. If Mr. Sawyer wishes to have a hearing, one will be scheduled promptly.

RSA 541-A:31, III(e) provides that Mr. Sawyer has the right to have an attorney present to represent Mr. Sawyer at Mr. Sawyer's expense. If the Permit is an occupational license, under RSA 541-A:31, III(f) Mr. Sawyer has the right to request DES to provide a certified shorthand court reporter at Mr. Sawyer's expense. **Such request must be submitted in writing at least 10 days prior to the proceeding.**

Mr. Sawyer may waive his right to a hearing. If Mr. Sawyer waives the hearing, DES is prepared to revoke his septic system installer's permit. Mr. Sawyer should notify DES of his decision by filling out and returning the enclosed form by July 15, 2005.

Anyone having questions regarding this matter should contact Richard J. de Seve, Compliance Supervisor, Subsurface Systems Bureau, at 271-3442.

COPY
for 
Harry Stewart, P.E., Director
DES Water Division

Enclosures Appearance/Waiver Form

ec: Michael J. Walls, DES Assistant Commissioner
 Jennifer J. Patterson, Sr. Asst. Attorney General, NHDOJ/EPB
 Gretchen R. Hamel, DES Legal Unit Administrator
 James Martin, DES Public Information Officer
 William E. Evans, P.E., DES Water Division
 Richard J. de Seve, DES Water Division
cc: David and Lisa Lowell
 Board of Selectmen, Town of Raymond
 R. Mailhot, Town of Raymond Health Officer

***** RETURN THIS PAGE ONLY *****

RETURN THIS PAGE BY JULY 15, 2005

APPEARANCE

_____ I desire a hearing in accordance with RSA 485-A:36, I, regarding the Permit.

Name: _____
(Please type or print legibly)

Title: _____
(Please type or print legibly)

Signature

Date: _____

WAIVER OF HEARING

_____ I certify that I understand my right to a hearing regarding the revocation of the Permit and that I hereby waive those rights and relinquish septic system installer permit #3417.

Name: _____
(Please type or print legibly)

Title: _____
(Please type or print legibly)

Signature

Date: _____

Please return to: DES Legal Unit
Attn: Michael Sclafani
P.O. Box 95
Concord, NH 03302-0095